

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Joseph Foresta

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Joyce Ullman, 1518 Walnut St., Ste. 200, Philadelphia,
PA 19102; (215) 751-1063

DEFENDANTS

Airbnb, Inc.

County of Residence of First Listed Defendant San Francisco
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Kelly Fox, Gerolamo, McNulty, Divis & Lewbart,
121 S. Broad St., Ste. 1400, Philadelphia, PA, 19107
(215) 790-8400

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332.

Brief description of cause:

Plaintiff (PA) brings breach of contract claim against Defendant (CA & DE) and seeks to recover in excess of \$ 75,000 in damages.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$170,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 4/11/2023

SIGNATURE OF ATTORNEY OF RECORD

Kelly Fox

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 1514 Christian St., Philadelphia, PA 19146
 Address of Defendant: Brannan St., 4th Floor, San Francisco, CA 94103
 Place of Accident, Incident or Transaction: Philadelphia, PA

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes ☐ No ☐

Yes ☐ No ☐

Yes ☐ No ☐

Yes ☐ No ☐

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/11/2023

Kelly J. Fox
Must sign here
Attorney-at-Law / Pro Se Plaintiff

80273

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☒ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases
(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Kelly J. Fox, counsel of record or pro se plaintiff, do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought.

DATE: 04/11/2023

Kelly J. Fox
Signature (if applicable)
Attorney-at-Law / Pro Se Plaintiff

80273

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Joseph Foresta,

Plaintiff,

v.

Airbnb, Inc. ,

Defendant.

Civil Action No.

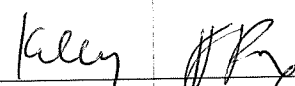
DEFENDANT AIRBNB, INC.'S CERTIFICATE OF INTERESTED PARTIES
PURSUANT TO FED. R. CIV. P. 7.1

Pursuant to Federal Rule of Civil Procedure 7.1, Defendant Airbnb, Inc. states: Airbnb, Inc. has no parent corporation, and there is no publicly held corporation owning ten percent (10%) or more of its stock.

Dated: April 11, 2023

GEROLAMO, MCNULTY, DIVIS,
LEWBART & FOX, P.C.

By: _____


Kelly J. Fox (State ID 80273)

kfox@gmdlfirm.com

121 S. Broad St., Ste. 1400

Philadelphia, PA 19107

Telephone: (215) 790-8400

Facsimile: (215) 790-8500

*Attorneys for Defendant
AIRBNB, INC.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Joseph Foresta,

Plaintiff,

v.

Airbnb, Inc.,

Defendant.

Civil Action No.

Date of State Court Filing: March 30, 2023

DEFENDANT AIRBNB INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Airbnb, Inc. ("Airbnb") hereby gives notice of removal of this action, captioned *Joseph Foresta v. Airbnb*, Case No. 220601113, from the Philadelphia County Court of Common Pleas to the United States District Court for the Eastern District of Pennsylvania. Pursuant to 28 U.S.C. § 1446(a), Airbnb provides the following statement of the grounds for removal:

BACKGROUND

1. On June 9, 2022, Plaintiff commenced this action by filing a praecipe for writ of summons in the Philadelphia County Court of Common Pleas.
2. On March 30, 2023, Plaintiff filed his Complaint for Damages. Plaintiff served the Complaint on Airbnb the same day. Fox Decl. ¶ 2. A copy of the Complaint is attached hereto as **Exhibit 1**.

VENUE AND JURISDICTION

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 84(a), 1391, 1441(a), and 1446(a) because the Court of Common Pleas, where the Complaint was filed, is a state court within the Eastern District of Pennsylvania.

4. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a) because (1) there is complete diversity of citizenship between Plaintiff and Defendant; (2) the amount in controversy exceeds \$75,000, exclusive of interests and costs; and (3) all other requirements for removal have been satisfied.

I. THERE IS COMPLETE DIVERSITY OF CITIZENSHIP BETWEEN PLAINTIFF AND DEFENDANT.

5. There is complete diversity of citizenship here because Plaintiff is a citizen of Pennsylvania, and Defendant is a citizen of Delaware and California. The diversity requirement is satisfied where, as here, an action “is between . . . citizens of different States.” 28 U.S.C. § 1332(a)(1).

6. On information and belief, Plaintiff Joseph Foresta is domiciled in and therefore a citizen of Pennsylvania. *See Lincoln Ben. Life Co. v. AEI Life, Inc.*, 800 F.3d 99,107 (3d Cir. 2015) (holding assertions of citizenship stated “on information and belief” were permissible); *Lewis v. Rego Co.*, 757 F.2d 66, 69 (3d Cir. 1985) (permitting pleading of citizenship on information and belief).

7. For purposes of diversity jurisdiction, a corporation is “a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” 28 U.S.C. § 1332(c)(1).

8. Airbnb is a Delaware corporation with its principal place of business in California. Compl. ¶ 3. Therefore, Airbnb is a citizen of Delaware and California.

II. THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000.

9. Plaintiff seeks \$170,000 in damages from Airbnb. Compl. at 5. This satisfies the amount-in-controversy requirement. 28 U.S.C. § 1446(c)(2) (“the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy”).

III. ALL OTHER REMOVAL REQUIREMENTS ARE SATISFIED.

A. The Notice of Removal Is Timely.

12. This Notice of Removal is timely filed. Counsel for Airbnb received the Complaint in this matter on March 30, 2023, Fox Decl. ¶ 2, and this Notice of Removal was filed on April 11, 2023. *See* 28 U.S.C. § 1446(b)(1); *Dubin v. Principal Fin. Grp.*, 2001 WL 417312, at *1 (E.D. Pa. Apr. 23, 2001) (where action is commenced by filing of praecipe for writ of summons and complaint is filed later, “the time for defendants to remove commence[s] upon counsel’s receipt of the complaint”).

B. All Properly Joined and Served Defendants Consent to Removal.

13. Airbnb is the only defendant in this action. Therefore, for purposes of removal based on diversity jurisdiction under 28 U.S.C. § 1332(a) and pursuant to 28 U.S.C. § 1446(b), all defendants who have been properly joined and served consent to removal.

15. By filing this Notice of Removal, Airbnb does not waive any defense that may be available to them and reserves all such defenses. If any question arises as to the propriety of the removal to this Court, Airbnb requests the opportunity to present a brief and oral argument in support of their position that this case has been properly removed.

C. Notice of Removal.

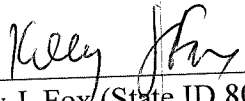
16. Pursuant to 28 U.S.C. § 1446(d), Airbnb will give written notice of the filing of this Notice of Removal to all adverse parties of record in this matter, and will file a copy of this Notice with the clerk of the state court.

CONCLUSION

WHEREFORE, Airbnb hereby removes this action from the Court of Common Pleas, Philadelphia County to the United States District Court for the Eastern District of Pennsylvania.

Dated: April 11, 2023

Respectfully submitted,

By: 
Kelly J. Fox (State ID 80273)
kfox@gmdlfirm.com
GEROLAMO, MCNULTY, DIVIS,
LEWBART & FOX, P.C.
121 S. Broad St., Ste. 1400
Philadelphia, PA 19107
Telephone: (215) 790-8400
Facsimile: (215) 790-8500

*Attorneys for Defendant
AIRBNB, INC.*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Joseph Foresta,

Plaintiff,

v.

Airbnb, Inc.,

Defendant.

Civil Action No.

**DECLARATION OF KELLY J. FOX IN SUPPORT OF DEFENDANT AIRBNB INC.'S
NOTICE OF REMOVAL**

I, Kelly J. Fox, hereby declare and state as follows:

1. I am a partner with the law firm of Gerolamo, McNulty, Divis, Lewbart & Fox and a member in good standing of the Pennsylvania State Bar. I am counsel of record in this action for Defendant Airbnb, Inc. ("Airbnb"). I make this declaration in support of Airbnb's Notice of Removal. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify thereto.
2. Plaintiff served Airbnb with the Complaint in *Joseph Foresta v. Airbnb* (Philadelphia County Court of Common Pleas Case No. 220601113) on March 30, 2023.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 11, 2023, at Philadelphia, Pennsylvania.

By: _____

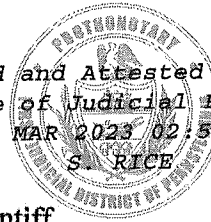
Kelly J. Fox

EXHIBIT 1
COMPLAINT

JOYCE ULLMAN, ESQUIRE

Attorney Id. No: 12736
 1518 Walnut Street, Suite 200
 Philadelphia, Pa 19102
 PH: 215-751-1121
 Fax: 215-751-1063

Filed and Attested by the
 Office of Judicial Records
 30 MAR 2023 02:57 pm



Attorney for Plaintiff
 Joseph Foresta

Joseph Foresta
 1514 Christian Street
 Philadelphia, Pa 19146

COURT OF COMMON PLEAS
 PHILADELPHIA COUNTY
 TRIAL DIVISION

v.

June Term, 2022

Airbnb
 Brannan Street, 4th Floor
 San Francisco, CA 94103

No: 01113

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Philadelphia Bar Association
 Lawyer Referral and Information Service
 One Reading Center
 Philadelphia, Pennsylvania 19107
 (215) 238-6333
 TTY (215) 238-6333

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascender una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademias, Leon Allen corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

Lleve esta demanda a un inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

De Filadelfia
 Servicio De Referencia E Informacion Legal
 One Reading Center
 Filadelfia, Pennsylvania 19107
 (215) 238-6333
 TTY (215) 238-6333

Case ID: 221201986

Case ID: 220601113

JOYCE ULLMAN, ESQUIRE

Attorney Id. No: 12736
 1518 Walnut Street, Suite 200
 Philadelphia, Pa 19102
 PH: 215-751-1121
 Fax: 215-751-1063

Attorney for Plaintiff
 Joseph Foresta

Joseph Foresta	:	COURT OF COMMON PLEAS
1514 Christian Street	:	PHILADELPHIA COUNTY
Philadelphia, Pa 19146	:	TRIAL DIVISION
	:	
v.	:	June Term, 2022
	:	
Airbnb	:	No: 01113
Brannan Street, 4 th Floor	:	
San Francisco, CA 94103	:	

COMPLAINT

1. Plaintiff, Joseph Foresta is an adult individual who presently resides at 1514 Christian Street, Philadelphia, Pa 19146.
2. The property at 1514 Christian Street is a three story multi-unit residential property consisting of three apartments, one on each floor.
3. Defendant, Airbnb is an LLC incorporated in the state of Delaware, registered to do business in the Commonwealth of Pennsylvania with its corporate office located at 888 Brannon Street, San Francisco, CA 42103.
4. At all times relevant herein Defendant Airbnb was in the business of selling lodging to its customers (known as "guests") in private residences listed with Defendant Airbnb (known as "hosts") for short term or long term lodging.
5. Defendant, Airbnb collected the amount of the rental from the guest in advance and remitted the amount collected, less a commission to the host.

6. At all times relevant herein Plaintiff listed his apartments at 1514 Christian Street as a host property with Defendant Airbnb.

7. These apartments were all newly furnished.

8. At the time Plaintiff listed his property at 1514 Christian Street with Defendant Airbnb, Defendant Airbnb advised Plaintiff that, before it accepted a reservation from a prospective guest, they thoroughly vetted the prospective guest, led Plaintiff to believe it was responsible for the safety of the host's property from any damage caused by the guest to the host's property, and it would be responsible for any over stay of the guests beyond the time reserved and paid for by the guest.

9. At all times relevant herein, by accepting guests from Defendant Airbnb, Plaintiff relied upon these assurances made by Defendant Airbnb and believed that Defendant Airbnb would protect him from a guest causing property damage and/or over staying their prepaid reservation.

10. An adult individual by the name of Lawrence H. Jackson made a reservation with Defendant Airbnb for one night, June 13, 2020 as a guest in the second floor apartment of Plaintiff's property at 1514 Christian Street.

11. Defendant Airbnb collected the rent for one night from Lawrence H. Jackson.

12. On June 14, 2020 Lawrence H. Jackson refused to vacate the property and remained living in the property until Plaintiff was able to obtain a Court order for the Sheriff to remove him from the property on September 9, 2020.

13. After June 14, 2020 Lawrence H. Jackson took possession of the entire 1514 Christian Street property. He:

- a) Changed the locks on the outside door to the building so Plaintiff could not gain access to the property;
- b) Proceeded to rent out the other two apartments to four to six people per apartment, and collected rent from his “tenants”.

14. At no time did Plaintiff give permission to Lawrence H. Jackson to remain living in the building after June 14, 2020, to change the locks on the outside doors, and allow him to rent the apartments to persons unknown to Plaintiff and collect rent from those unknown persons.

15. Lawrence H. Jackson and the occupants that Lawrence H. Jackson allowed to live in the property did extensive damage to the interior and exterior of the property, including but not limited to damaging the furniture and piling up to five feet of trash on the sidewalk outside the front and back of the property, defacing the exterior walls, breaking the doors and windows, breaking the water pipes, breaking the appliances, breaking the bathroom fixtures, breaking the banister on the stairs, breaking the fire alarms, damaging the walls and floors, and breaking the patio railing.

16. When Plaintiff tried to gain access to the property one of the occupants physically attacked him, striking him with a baseball bat to his head and to his stomach, and threatened to kill him if he ever returned to the property, causing Plaintiff to sustain serious bodily injuries, including a subsequent stroke, and he was fearful of ever returning to the property.

17. From the time Lawrence H. Jackson overstayed his reserved time, Plaintiff made many attempts to contact Defendant Airbnb but his calls were never returned.

18. After Plaintiff retained legal counsel, letters were written by his counsel to Defendant Airbnb, none of which were acknowledged.

19. It was not until august 2020 that Defendant Airbnb finally “acknowledged” the

communications, but did nothing to remove Lawrence H. Jackson from the property or to address the damage done to the property.

20. On August 10, 2020 Plaintiff instituted a legal action by filing a Complaint in Ejectment against Lawrence H. Jackson and other Unknown occupants and a Petition for Injunctive Relief, docketed at case No. 200800813 and incurred attorney's fees and costs of \$4,500.00.

21. A hearing was held on September 9, 2020 at which time the Court ordered that a Writ of Possession be issued against Lawrence H. Jackson and unknown occupants and they were removed from the property by the Sheriff.

22. The damage done to the property and the furnishings was in excess of \$75,000.00.

23. The damage was so excessive that even after Lawrence H. Jackson and the unknown occupants were removed it was impossible to rent the apartments.

24. It took Plaintiff until December 2021 to repair the damage to the property.

25. The damage done to the property was the direct result of the Defendant Airbnb placing Lawrence H. Jackson as a guest in Plaintiff's property and doing nothing to have him removed from the property after June 14, 2020.

26. There was an implied contract between Plaintiff and Defendant Airbnb that whenever Defendant placed a guest in Plaintiff's property said placement posed a duty on Defendant Airbnb, and created an expectation on the part of Plaintiff that it would take immediate action to remove any guest who overstayed his/her prepaid reservation.

27. There was also an implied contract between Plaintiff and Defendant Airbnb that

whenever they placed a guest in Plaintiff's property and that guest caused damage to the property or allowed damaged to be caused to the property by others, Airbnb would be responsible to repair the damage.

28. This implied contract was in effect when Defendant Airbnb placed Lawrence H. Jackson in Plaintiff's property from June 13, 2020 to June 14, 2020.

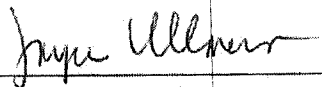
29. Defendant Airbnb violated this implied contract by failing to do anything to remove Lawrence H. Jackson from 1514 Christian Street after June 14, 2020, or to repair the damage to the property.

30. As a result of such breach of its implied contract Plaintiff suffered damages as follows:

- a). loss of rental income from the entire property from June 14, 2020 until December 30, 2021 of \$91,200.00;
- b). repairs to the damage property and replacing the furniture, \$75,000.00;
- c). attorney's fees, Court costs and Sheriff's fee incurred by Plaintiff in bringing and prosecuting the ejectment action \$4,500.00.

WHEREFORE, Plaintiff seeks judgement against Airbnb in the amount of \$170,000.00, plus interest and attorney's fees and other costs as allowed by the Court.

March 30, 2023

BY: 
Joyce Ullman, Esquire
Attorney for Plaintiff, Joseph Foresta

VERIFICATION

I, Joseph Foresta, verify that I am the Plaintiff in the within matter, and that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief. I understand that the statements made therein are subject to the penalties of 18 Pa. C.S §4904 relating to unsworn falsification to authorities.

Dated: 3/30/23

Joseph Foresta
Joseph Foresta

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Joseph Foresta,

Plaintiff,

v.

Airbnb, Inc.,

Defendant.

Civil Action No.

PROOF OF SERVICE

I, Kelly J. Fox, am a resident of the State of Pennsylvania, over the age of eighteen years, and not a party to this action. My business address is 121 S. Broad St., Ste. 1400, Philadelphia, PA 19107. On April 11, 2023, I served:

- **DEFENDANT AIRBNB' INC.'S NOTICE OF REMOVAL**
- **DECLARATION OF KELLY J. FOX IN SUPPORT OF DEFENDANT AIRBNB, INC.' S NOTICE OF REMOVAL**
- **DEFENDANT AIRBNB, INC.'S CERTIFICATE OF INTERESTED PARTIES PURSUANT TO FED. R. CIV. P. 7.1**
- **CIVIL COVER SHEET**
- **DESIGNATION FORM**

by causing true and correct copies thereof to be placed in sealed envelopes with postage fully prepaid, in the United States mail, addressed as set forth below. I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. Under that practice, they would be deposited with the U.S. Postal Service with postage fully prepaid in the ordinary course of business:

Joyce Ullman, Esq.
1518 Walnut St., Ste. 200
Philadelphia, PA 19102

I also served all documents via email and through Philadelphia Court of Common Pleas efilings. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct. Executed on April 11, 2023, at Philadelphia, Pennsylvania.

By: Kelly J. Fox
Kelly J. Fox